IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV.APPLICATION NO.369 OF 2005

State of Maharashtra .. Applicant

Versus

Sunil Keda Sonawane & Ors. .. Respondents

Mr.P.A.Pol, A.P.P. for State

CORAM : S.C.DHARMADHIKARI, J.

DATE : 24th November 2006.

P.C.

. In a case pending before the J.M.F.C., Satana since 1996, at the instance of petitioner herein, application Exh.,50 was preferred for alteration of charge. The complaint/F.I.R. was

laid alleging offences punishable under section 326, 323, 504, 506 read with 34 I.P.C. The Judicial Magistrate, F.C. allowed application Exh.50 and altered the charge to one punishable under section 307. He, thereafter, ordered that the case be committed to sessions court for trial.

2. Respondent accused being aggrieved by this order preferred a revision application being Criminal Revision Application No.70 of 1999. By the impugned order, the said revision has been allowed by the first Ad-hoc Additional Sessions Judge, Malegaon, Dist.Nashik. The order of J.M.F.C. Satana below Exh.50 dated 15th June 1999 is set aside. The case has been directed to be disposed off by J.M.F.C. on the basis of the unaltered charge, as expeditiously as possible.

3. Having perused the order passed by the learned Ad-hoc Additional Sessions Judge,

Malegaon, with the assistance of learned A.P.P. I find that the learned Judge was right in interfering with the order of J.M.F.C. The material produced for altering the charge was not sufficient to proceed under section 307 of I.P.C. The learned Additional Sessions Judge has assigned cogent and satisfactory reasons while arriving at a conclusion that the order of J.M.F.C. suffers from an error apparent and can safely be termed as perverse. The Additional Sessions Judge has referred to the contents of the medical certificate so also the F.I.R. and has observed that the complainant being discharged from the hospital within eight days and the nature of the injuries so also other materials not warranting framing of charge of under section 307 of I.P.C., J.M.F.C. was in error in framing the same.

4. I do not find any perversity much less manifest injustice being demonstrated by the

approach of the Revisional Court. The case is pending since 1996 and as rightly held by the learned Judge should proceed against the accused under sections 323, 326, 504 and 506 read with 34 I.P.C.

5. There is no merit in the revision application and it is summarily dismissed.

(S.C.Dharmadhikari, J)